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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,330	05/18/2005	Behzad Sadeghi	SONN:073US	3891

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EXAMINER

ANTHONY, JOSEPH DAVID

ART UNIT PAPER NUMBER

1714

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/535,330

Applicant(s)

SADEGHI ET AL.

Examiner

Joseph D. Anthony

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 9-18 is/are rejected.
- 7) ☐ Claim(s) 19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION #2

Oath/Declaration

1. A new oath or declaration is required because the declaration as filed in the application is not in the English Language. The wording of an oath or declaration cannot be amended. If the wording is not correct or if all of the required affirmations have not been made or if it has not been properly subscribed to, a new oath or declaration is required. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration. See MPEP §§ 602.01 and 602.02.

Claim Objections

2. Claim 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 10 is objected to because the phrase: "further comprising an oxygen-sequestering substance" is not deemed to further limit the composition of independent claim 9 since the antioxidants of claim 9 are deemed to fall within the functional claim language of "oxygen-sequestering substances themselves."

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9, 15-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Barnabas et al. U.S. Patent Number 6,133,227 or Shah et al. U.S. Patent number 5,777,190 or Wagner et al. U.S. Patent Number 6,124,242 or Hitz et al. U.S. Patent Number 5,760,206.

All said patents directly teach that it is very well known in the art to use electron donor systems comprising NADPH:Ferredoxin complexes, see column 5, lines 3-19 and claim 11 of Barnabas et al.; the abstract of Shah et al.; the abstract of Wagner et al.; and column 12, lines 52-55 of Hitz et al..

6. Claims 10-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnabas et al. U.S. Patent Number 6,133,227 or Shah et al. U.S. Patent number

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5,777,190 or Wagner et al. U.S. Patent Number 6,124,242 or Hitz et al. U.S. Patent Number 5,760,206; anyone of the said primary references in view of anyone of the following references: EP 1 161 884 A1 (disclosed by applicant on page 3 of the specification) or U.S. Patent numbers 5,332,727 or U.S. Patent Number 5,952,312.

The primary references have been described above and differ from applicant's claimed invention in the following ways: 1) they do not direct teach (i.e. by way of an example) the further addition of applicant's components of dependent claims 10-14 and they do not direct teach the use of NADH in lieu of NADPH in the complexes.

It would have been obvious to one having ordinary skill in the art to use the individual disclosure of anyone of the secondary patents which directly teach admixtures of NADH and/or NADPH electron carriers/antioxidants with oils that contain antioxidants such as Vitamin E or Tocotriol, as motivation to add the electron carriers/antioxidant complexes as taught by the primary references to the compositions taught by the secondary references.

Likewise it would have been obvious to substitute NADH for NADPH in the complexes of the primary references in light of the functional equivalence of NADH and NADPH as taught by the secondary references.

Response to Arguments

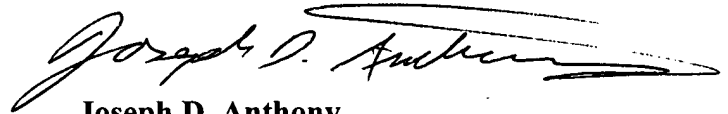
7. Applicant's arguments with respect to claim 9-21 have been considered but are moot in view of the new ground(s) of rejection. Please note that the issue of

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Oath/Declaration is still under consideration by the examiner who will need to contact a specialist about this matter.

Examiner Information

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Joseph D. Anthony whose telephone number is (571) 272-1117. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (571) 272-1119. The centralized FAX machine number is (571) 273-8300. All other papers received by FAX will be treated as Official communications and cannot be immediately handled by the Examiner.



Joseph D. Anthony
Primary Patent Examiner
Art Unit 1714

11/27/06